

THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

**JOHN L. HILL
ATTORNEY GENERAL**

June 19, 1974

The Honorable Joe Resweber
County Attorney
Harris County Courthouse
Houston, Texas 77002

Opinion No. H- 330

Re: Fees of appointed counsel
representing both a criminal
defendant and a juvenile in
different courts on the same
day. Sec. 51.10(i), Family
Code, V. T. C. S.; Art. 26.05,
V. T. C. C. P.

Dear Mr. Resweber:

You have asked our opinion on the following question:

Is a lawyer entitled to receive a \$50.00 fee for
representing a defendant in a criminal proceeding
in the District Court when such lawyer has already
been paid \$50.00 for representing, on appointment,
a juvenile in the Juvenile Court on the same day?

Compensation for appointed counsel in criminal cases is governed by
Article 26.05 of the Code of Criminal Procedure which provides in pertinent
part:

Sec. 1. A counsel appointed to defend a person
accused of a felony or a misdemeanor punish-
able by imprisonment, or to represent an in-
digent in a habeas corpus hearing, shall be paid
from the general fund of the county in which the
prosecution was instituted or habeas corpus
hearing held, according to the following schedule:
(a) For each day or a fractional part thereof
in court representing the accused, a reasonable
fee to be set by the court but in no event to be
less than \$50.00.

. . .

Sec. 4. An attorney may not receive more than one
fee for each day in court, regardless of the number

of cases in which he appears as appointed counsel on the same day.

Section 4 of Art. 26.05 has been consistently interpreted by this office as limiting an attorney to one fee per day even though he represents one defendant on multiple indictments on the same day [Attorney General Opinion No. H-298 (1974)], or represents several defendants on the same day [Attorney General Opinion No. C-639 (1966)], or represents several defendants in several different courts on the same day [Attorney General Opinion No. C-713 (1966)].

Court appointments in juvenile matters are governed by Sec. 51.10 of the Texas Family Code. Subsection (i) of Sec. 51.10 provides:

(i) . . . [A]n attorney appointed under this section to represent the interests of a child shall be paid from the general fund of the county in which the proceedings were instituted according to the schedule in Article 26.05 of the Texas Code of Criminal Procedure, 1965. . . .

The Family Code incorporates by reference "the schedule in Article 26.05," and we believe that this can only be read as incorporating the entire schedule. In our opinion, the one fee per day limitation of Sec. 4 of Article 26.05 is an integral part of the fee schedule.

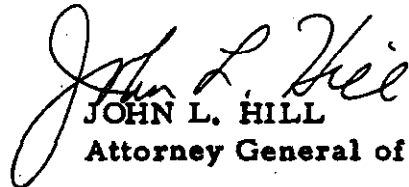
While these provisions limit an appointed attorney to a single fee per day, it should also be noted that the attorney is statutorily entitled to a "reasonable fee" and the reference to \$50 only establishes a minimum and is not a further limitation.

Thus, in our opinion, where an appointed attorney represents both an indigent defendant in district court and a juvenile in juvenile court on the same day, he may only be compensated by a single fee.

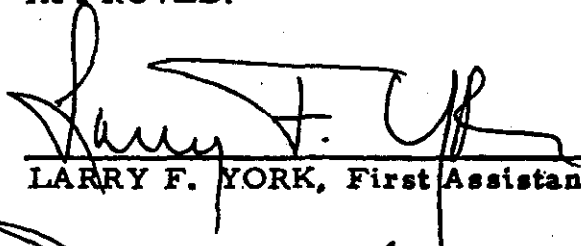
S U M M A R Y

An appointed attorney who represents both an indigent criminal defendant in district court and a juvenile in juvenile court on the same day may not receive more than a single fee.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


LARRY F. YORK, First Assistant


DAVID M. KENDALL, Chairman
Opinion Committee